

Application No.: 09/776,454

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Docket No.: 416272001500

REMARKS/ARGUMENTS

In an Office Action dated May 14, 2004, claims 1-4, 6-8, 10, 12, 22-25, 27-35 and 37-41 were rejected. In the present response, Claims 5, 9, 11, 13-21, 26, 36 are canceled. By this amendment, claims 1, 4, 6, 8, 12, 22, 25, 27, 29, 31, 32, 35, 37, 39 and 41 have been amended. New claims 42-47 have been added. Claims 1-4, 6-8, 10, 12, 22-25, 27-35 and 37-47 are pending. Applicants request reconsideration of the pending claims in view of the present amendment and following remarks.

The claims have been amended to clarify that they cover use of two dogs, one challenged with the first extract and one challenged with the second extract, as well as use of one dog, wherein the dog is challenged with each extract. As noted by the Examiner, the original claims cover use of two dogs, so there is written description support for use of two dogs. In addition, the specification clearly provides an example of use of one dog as discussed below, so there is written description support for use of one dog.

Interview Request

The applicants respectfully request that the Examiner contact the undersigned after reviewing this response to set up a telephone interview to discuss the substance of this response.

Claim Objections

The applicants note the Examiner's objection to the claims and assert that the present response follows the revised amendment practice.

Claim Rejections – 35 USC § 112, first paragraph, Written Description

The Examiner has rejected claims 1, 22, and 32 under 35 U.S.C. 112, first paragraph, as containing subject matter not described in the specification in such a way as to reasonably convey to one of skill in the art that the inventors had possession of the claimed invention. The Examiner has

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asserted that the specification does not adequately disclose use of the same dog in the subsequent steps d-e of the method.

The Applicants respectfully disagree with the Examiner's rejection. The specification contains clear examples of the use of the *same* dog for the subsequent steps d-e. For instance, Example 2 describes how the set of dogs used for all the other Examples were sensitized. Specifically, page 20, lines 7-29 of the specification gives the details of sensitization of three litters of newborn dogs that were used for the Examples. After thirteen dogs that showed low response to allergens were removed from the colony, fourteen dogs remained for the series of experiments described in the rest of the example section. Eleven of the fourteen dogs were sensitized with the transgenic leaf extract containing the heterologous protein of interest (the first extract in the claims): the 7FB litter and the 7FC litter. Only three of the fourteen dogs were not sensitized with the transgenic leaf extract: the dogs of the 7FA litter. Table 2 on page 24 of the specification shows both the results of testing the eleven sensitized dogs with the control corn leaf extract (the second extract in the claims) and the results of testing the *same* eleven sensitized dogs with the transgenic corn leaf extract (the first extract in the claims). Thus, one of skill in the art would clearly understand that the inventors had possession of the currently claimed invention which includes challenging the *same* dog with both the first and second extract (See claims 3, 24, and 34 as currently amended).

Further support may be found on page 6, lines 21-25 of the specification where the same dog is challenged with both the control substance (the second extract) and the test extract (the first extract). Therefore, applicants respectfully request that the Examiner withdraw the rejection to the claims 1, 22, and 32 under 35 U.S.C. § 112, first paragraph.

The Examiner has rejected claims 3, 4, 24, 25, 34, and 35 under 35 U.S.C. 112, first paragraph, as containing subject matter not described in the specification in such a way as to reasonably convey to one of skill in the art that the inventors had possession of the claimed invention. The Examiner has asserted that the specification does not adequately disclose use of a transgenic plant to generate a second extract.

Applicants respectfully disagree with the Examiner's grounds for rejection and the above statements. The language in the originally filed claims used a "second plant ☐ extract containing

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substantially the same proteins as the first extract but lacking the heterologous protein." Thus in the original claims, the definition of the second extract did not distinguish between transgenic and non-transgenic plants as the source of the second extract and therefore clearly covered both. The only claim limitation was that the second extract contains substantially the same proteins as the first extract but lacking the heterologous protein. Thus, the second extract includes extracts obtained from both transgenic and non-transgenic plants.

Furthermore, the specification provides support for challenging with a second extract obtained from a transgenic plant. On page 6, line 21-24, the specification discloses challenging a dog with a control extract. Page 12, lines 30-34 defines a control extract as including transgenic plants. Applicants therefore respectfully request that the Examiner withdraw the rejection.

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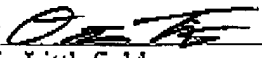
Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 416272002220. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: August 11, 2004

Respectfully submitted,

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